

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Econco Broadcast Service, Inc.
1318 Commerce Avenue
Woodland, California 95776

ID No. CAD 980 814 750

Respondent.

Docket SRPD02/03NAEO-1285

CONSENT ORDER

Health and Safety Code
Section 25187

The California Department of Toxic Substances Control (Department) and Econco Broadcast Service, Inc. (Respondent) enter into this Consent Order and agree as follows:

1. Respondent generates and treats hazardous waste at the following site: 1318 Commerce Avenue, Woodland, California 95776 (Site). The Respondent generates the following hazardous waste: wastewater containing cyanide from electroplating operations where cyanide is used in the process, hazardous wastewater containing dissolved metals, metal polishing dust waste containing hazardous levels of copper, corrosive liquid waste, and oxygenated organic solvent waste. The Respondent also conducts onsite recycling (treatment) of aqueous solutions containing dissolved metals and cyanide.

2. The Department inspected the Site on July 25 - 26, 2002.

3. The Department alleges the following violations:

3.1. The Respondent violated Health and Safety Code section 25201 and California Code of Regulations, title 22, section 66270.1, subdivision (c), in that on or about July 25, 2002, Respondent treated aqueous hazardous waste containing dissolved metal from electroplating operations in a fixed treatment unit (an evaporator) without the proper permit or grant of authorization from the Department or the authorized local Certified Unified Program Agency (CUPA).

3.2. The Respondent violated Health and Safety Code section 25143.10, in that on or about July 25, 2002, Respondent failed to submit notification of a claim of exemption from permitting requirements pursuant to Health and Safety Code section 25143.2, subdivision (c)(2), for the recycling of two hazardous waste streams (wastewater containing cyanide and wastewater containing dissolved metals).

3.3. The Respondent violated Health and Safety Code section 25143.2, subdivision (c)(2)(C) and California Code of Regulations, title 22, sections 66262.34, subdivision (a), and 66265.193 in that on or about July 25, 2002, Respondent failed to label two fixed treatment units used to recycle wastewater from electroplating operations and one fixed treatment unit used to evaporate water from electroplating operations with the words "Hazardous Waste", the date on which the period of accumulation in the treatment units began, the composition and physical state of the waste treated in the treatment units, statements which call particular attention to the hazardous properties of the waste, and failed to provide secondary containment for the three treatment units.

3.4. The Respondent violated Health and Safety Code section 25201 and California Code of Regulations, title 22, section 66262.34, subdivision (f), in that on or about August 15, 2002, the Respondent failed to label (9) containers holding hazardous waste with the words "Hazardous Waste", the date on which the period of accumulation began, the composition and physical state of the waste, and statements which call attention to the particular hazard characteristics of the waste.

3.5. The Respondent violated California Code of Regulations, title 22, section 66262.11 in that on or about July 25, 2002, the Respondent failed to maintain a waste analysis record or a record of a waste determination for waste sand blasting dust used to sand blast copper parts. Respondent was disposing of the dust by placing it in a trash bin along with regular facility garbage destined for disposal at the County landfill. Subsequent waste analysis by a certified laboratory revealed that the waste is hazardous due to the concentration of copper in the waste.

3.6. The Respondent violated Health and Safety Code section 25162, subdivision (c), in that Respondent caused the transfer of a hazardous polishing dust waste to a County sanitary landfill that does not hold a valid hazardous waste disposal permit.

3.6.1. The Respondent violated Health and Safety Code sections 25201 and 25189.5, in that Respondent disposed of hazardous polishing dust waste into regular trash destined for disposal at an offsite facility (County landfill) that does not hold a valid hazardous waste disposal permit.

3.7. The Respondent violated Health and Safety Code section 25160, subdivision (b) in that Respondent failed to complete a uniform hazardous waste transport manifest to track the transfer of hazardous waste polishing dust to an offsite facility (County landfill).

3.7.1. The Respondent violated Health and Safety Code section 25163, subdivision (a), in that Respondent transferred custody of hazardous waste polishing dust to a transporter (non-hazardous waste hauler who hauls trash to local County landfill) who does not hold a valid registration issued by the department.

3.8. The Respondent violated California Code of Regulations, title 22, section 66265.16 in that on or about July 25, 2002 Respondent failed to train employees occupying positions related to hazardous waste management.

3.9. The Respondent violated California Code of Regulations, title 22, section 66265.192 in that on or about January 20, 2003, Respondent failed to submit a written assessment from an independent engineer regarding a hazardous waste tank system used to manage cyanide-bearing hazardous waste. On November 21, 2002, at Respondent's request, additional time was granted for Respondent to obtain the required assessment.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Upon execution of this Consent Agreement, the Enforcement Order issued herein on April 18, 2003, is withdrawn.

SCHEDULE FOR COMPLIANCE

10. Respondent shall comply with the following:

10.1.1 Respondent shall maintain at the facility and available for inspection records documenting that training has been provided for all employees occupying positions related to hazardous waste management pursuant to California Code of Regulations, title 22, section 66265.16.

10.1.2. Respondent shall maintain at the facility and available for inspection all certified statements from a qualified independent engineer attesting that hazardous waste management tanks have been equipped with adequate secondary containment pursuant to California Code of Regulations, title 22, chapter 15, article 10.

10.1.3. Respondent shall maintain at the facility and available for inspection completed copies of all hazardous waste transport manifests for the prior three-year period.

10.1.4. Respondent has submitted various documents dated August 22, 2002 and November 21, 2002, showing that some of the violations described in Section 3 of this Order have been corrected or adequately addressed.

a. Violations described in sections 3.1, 3.2., 3.3, 3.4, and 3.5 of this order have been adequately corrected or addressed, and no further action is required of Respondent with respect to these violations.

b. Violations described in sections 3.6, 3.6.1, 3.7, 3.7.1, and 3.8 have been adequately addressed in that Respondent has certified that the violations are no longer occurring, and no further action is required at this time of Respondent with respect to these violations.

10.1.5. In regard to violation 3.9, Respondent has provided the Department with copies of the required written assessments as to all currently operating hazardous waste tanks. Respondent shall maintain the assessments at the facility and available for inspection. As applicable, Respondent shall obtain a certified reassessment for all hazardous waste tanks and ancillary equipment periodically as specified in California Code of Regulations, title 22, section 66265.192, and shall maintain up-to-date assessments at the facility and available for inspection .

10.1.6. Notwithstanding, and in addition to, any other notification or reporting requirements to which Respondent is subject by virtue of statute, regulation, or otherwise, Respondent shall report any violation or lapse in compliance of any element of this Schedule for Compliance. Such report shall cite the docket number of this order and shall be made to the persons identified in paragraph 10.2 below not later than thirty days after the commencement of the violation or lapse in compliance.

10.1.7. Immediately, and for a period thereafter of not less than five years, Respondent shall maintain this Order as part of its operating record.

10.2. Submittals. All submittals from Respondent pursuant to this Consent Order shall be sent simultaneously to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

Mr. Bruce Sarazin
Supervising Hazardous Materials Specialist
Yolo County Health Department
10 Cottonwood Street
Woodland, California 95695

10.3. Communications. All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

10.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

10.5. Compliance with Applicable Laws. Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.6. Endangerment during Implementation. In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.7. Liability. Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.8. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to:

inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.9. Sampling, Data, and Document Availability. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

10.10. Government Liabilities. The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests. If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.13. Extension Approvals. If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11.1. Respondent shall pay to the Department a total penalty of \$135,000, which includes \$6,246.37 as reimbursement of the Department's costs.

11.2. The penalty shall be reduced by \$5,000 if, and only if, Respondent sends at least three employees to the California Compliance School, Modules I - V, and submits to the Department, within 180 days of the effective date of this Consent Order, Certificates of Satisfactory Completion thereof.

11.3. \$130,000 of the above penalty is due and payable within thirty days of the effective date of this Consent Order.

11.4. In the event that the above Certificates of Satisfactory Completion are not all received by the Department within 180 days of the effective date of this Consent Order, the entire remaining balance of \$5,000 shall then become due and payable.

11.5. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

James J. Grace
Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, 23rd floor
P. O. Box 806
Sacramento, California 95812-0806

11.6. If Respondent fails to make any payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

12.1. Additional Enforcement Actions. By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance. Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound. This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

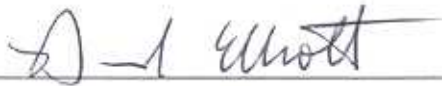
12.4. Effective Date. The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.


12.6. Compliance with Waste Discharge Requirements. Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Respondent
Econco Broadcast Service, Inc.

Dated: July 7 2003

By: 

Dated: 14 July 03


Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control